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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,247	01/17/2001	Thomas C. Bressoud	1-1-1-1	5905

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EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/764,247

Applicant(s)

BRESSOUD ET AL.

Examiner

Hassan Phillips

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the Request for Continued Examination (RCE), amendments, and remarks filed on filed July 8, 2005.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 8, 2005 has been entered.

#### ***Claim Objections***

3. Claims 30 and 37 are objected to because of the following informalities: The wording "based on least" repeated in the last six lines of the claims makes reading of the claims unclear. In order to advance prosecution of the application for patent Examiner has interpreted the wording as "based at least". Appropriate correction is required.

4. Claim 35 is objected to because of the following informalities: There is no apparent teaching in Applicants specification of a south side wrap interposed between a

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process layer and a connection-oriented protocol layer. Appropriate correction is required.

5. Claim 36 is objected to because of the following informalities: There is no apparent teaching in Applicants specification of a north side wrap interposed between a network layer and a connection-oriented protocol layer. Appropriate correction is required.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 30-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 30-37, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (hereinafter Ma), U.S. Patent 6,018,805, in view of Lu et al. (hereinafter Lu), U.S. Patent 6,351,487.

9. In considering claims 30 and 37, Ma teaches a method and system for recovering from a failure of a server to a client, comprising: using proxies (108, 118) to intercept communications to a connection-oriented protocol layer (104, 114), the communications originating from a process layer (98, 96) of a layered communications framework, wherein the proxy is interposed between the process layer and the connection-oriented protocol layer, (col. 3, line 53-col. 4, line 3); logging intercepted communications and connection state information associated with intercepted communications received from the proxies, (col. 4, lines 36-46); determining when a connection with the server fails, (col. 4, lines 22-35); responding to the client on behalf of the server by the proxies based at least, in part, on the logged connection state information, (col. 4, lines 36-53); and restoring a state of connection associated with the connection-oriented layer prior to the failure, based at least, in part, on the connection state information received from the proxies, wherein restoring the state of connection associated with the connection-oriented layer is invisible to the client, (col. 4, lines 36-67).

Although the teachings of Ma disclose substantial features of the claimed invention, they fail to expressly disclose: the proxies being wrappers, and second wrappers interposed between the network layer and the connection-oriented layer.

Nevertheless, Lu teaches wrappers (60, 64) were well known in the art at the time of the present invention (col. 17, lines 39-48). Furthermore, Lu also teaches wrappers being interposed between a network layer (54) and a connection oriented layer (58), (col. 17, lines 39-48, Fig. 5).

Thus, given the teachings of Lu it would have been obvious to a person of ordinary skill in the art to disclose the proxies as wrappers and have second wrappers interposed between the network layer and the connection-oriented layer. Similar to the teachings of Ma this also would have advantageously provided a means for making server failures transparent to a client (Ma, col. 2, lines 24-46), while providing layers that would prevent modification of the connection-oriented protocol layer (Lu, col. 17, lines 48-63).

10. In considering claim 31, Ma teaches the connection-oriented layer being a Transmission Control Protocol layer, (col. 4, lines 15-21, Fig. 3).

11. In considering claim 32, Ma teaches the network layer being an Internet Protocol layer, (col. 4, lines 15-21, Fig. 3).

12. In considering claim 33, Ma teaches the process layer being an Application layer, (col. 3, lines 53-56, Fig. 3).

13. In considering claim 34, Ma teaches the logging of the intercepted communications and connection state information being performed on a processor separate from a processor executing the server, (col. 4, lines 36-46, Fig. 4).

14. In considering claim 35, Lu teaches a south side wrap, (col. 17, lines 39-48, Fig. 5). One of ordinary skill in the art would combine the teachings of Lu with Ma for the same reasons indicated in considering claim 30.

15. In considering claim 36, the teachings of Ma provide a means for the proxies to be a north side wraps, (col. 3, line 57-col. 4, line 3, Fig. 3).

### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER